

***IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO***

***IN RE :
WILLIAM LUCENA SOTO
EVELYN LOPEZ RAMIREZ***

***CASE NO. 15-05896 EAG
CHAPTER 13***

DEBTOR (S)

**SECOND AMENDED MOTION FOR MODIFICATION OF PLAN AFTER
CONFIRMATION PURSUANT TO
11USC 1229 AND LOCAL RULE 3015-2(f) PCM DATED: 12/5/ 2016
AND ANSWER TO MOTION TO DISMISS**

TO THE HONORABLE COURT:

Now come debtors, through their counsel, and respectfully expose and pray:

1. Debtor filed chapter 13 petition on 8/1/2015.D.E.#1
2. **The chapter 13 plan dated 10/24/2015 was confirmed . DOCKET # 34.**
3. The Gen Unsecured Pool **is \$0.00**
4. DEBTOR has legitimate reasons for requesting modifications of the confirmed chapter 13 plan.
5. On 10/26 /2016 Trustee filed Motion for dismissal.DE 52.
6. Debtors were unable to comply with confirmed plan due to unforeseen circumstances.
7. Debtors work a small truck selling hamburguers and hot dogs in a street in Hormigueros , but due to the inclemency of the weather during the last past months has severely affected the sales, allowing a minimal income . Codebtor Evelyn Lopez has been under medical treatment of Dr Luis Alvarez (Ortopedas de Oeste)due to neck and shoulder pains disabling her to work for past few months.
8. In order to be able to comply with disbursements to creditor debtors need to modify the plan.
9. Debtors's income has been reduced due to Yaritza Lucena(debtors's daughter) reduced hours at work, *she was assisting debtors* with an amount of \$500.00 , now limited to \$250.00 , therefore schedule I has been amended.

10. Accordingly, debtors have to modify the plan.

11. Debtor post confirmation Plan proposes to continue funding the Plan:

A) \$565.00 for 13 months

B) 0.00 for 4 months

C) \$315.00 for 43 months

Total base of plan: \$20,890.00

12. Under § 1329(a), a confirmed plan may be modified in order to "increase or reduce the amount of payments on claims of a particular class provided for by the plan; or to extend or reduce the time for such payments..." 11 U.S.C. § 1329(a) (1-2). Section 1329(b) provides that such post confirmation is subject to compliance with sections 1322(a), 1322(b), 1323(c), and 1325(a). This means that the plan as modified must be proposed in good faith. 11 U.S.C. § 1225(a)(3);

13. Also, it must comply with the "best-interests-of the-creditors" test and the "ability to-pay" standard of § 1225(a) (4-6) and good faith standards.

14. Debtors proposed modification complies with section 1229 to sustain the merits of such modification.

Notice of Time Fixed to Accept or Reject Debtors' Modification of Plan

Please take notice that pursuant to Bankruptcy Rule 2002(a) (5) you may file a formal written response to the proposed modification of the plan. Your response must be filed with the Clerk of the U.S. Bankruptcy Court for the District of Puerto Rico within twenty-one days from service of this notice. A copy of your response must be served upon debtors' counsel, whose name and address appears below.

WHEREFORE, debtors move the Court to allow the modification of the confirmed plan as necessary for debtor's rehabilitation furthermore debtors request the Court to deny the Motion to Dismiss with any further relief Court understands proper.

Dated: January 2, 2017.

CERTIFICATE OF SERVICE

I hereby certify that on this same date I electronically filed the above document with the Clerk

of the Court using ECF systems which sent a notification of such filing to all those who have registered for receipt of notice by electronic mail. I further certify that I have served to the US Trustee, ustpreion21.hr.ecf@usdoj.gov and to standing chapter 13 trustee Jose Carrion, ecfmail@ch13-pr.com, and by depositing true and exact copies thereof in the United States mail; postage prepaid to the non CM/ECF participants. As per master address list to all parties in interest to their address of record.

/s/Miriam S. Lozada RAMIREZ, Esq.
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UNITED STATES BANKRUPTCY COURT
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BK. CASE # 15-05896
CHAPTER 13

CHAPTER 13 PAYMENT PLAN

NOTICE: • The following plan contains provisions which may significantly affect your rights. You should read this document carefully and discuss it with your attorney. When confirmed, the plan will bind the debtor and each creditor to its terms. Objections must be filed in writing with the Court and served upon the debtor(s), debtors' counsel, the Trustee and any other entity designated by the Court, at the 341 meeting of creditors or not less than twenty (20) days prior to the scheduled confirmation hearing. For post confirmation Plan Modifications, objections must be filed and notified in the same manner within twenty (20) days from its notification. • **This plan does not allow claims. Any party entitled to receive disbursements from the Trustee must file a proof of claim. The Trustee will pay the allowed claims, as filed, provided for in the plan, unless disallowed or expressly modified by the Court and / or the terms of the plan. If no claim is filed, the Trustee will not pay a creditor provided for in the plan, unless ordered by the Court. If the Trustee is to make POST-PETITION REGULAR MONTHLY PAYMENTS to any Secured obligation, then a proof of claim must be filed including the following information: account number, address, due date and regular monthly payment. Secured creditor must notify any change in the monthly payment, three (3) months prior to the effective date of new payment. Those post-petition monthly payments will not exceed the life of the plan.** • See the notice of commencement of case for 341 meeting date and claims bar date, the latter is the date by which a proof of claim must be filed in order to participate of the plan distribution.

- The future earnings of the Debtor(s) are submitted to the supervision and control of the Trustee and the Debtor(s) shall make payments to the Trustee:
☒ directly ☐ by payroll deductions, as hereinafter provided in the PAYMENT PLAN SCHEDULE.
- The Trustee shall distribute the funds so received as hereinafter provided in the DISBURSEMENT SCHEDULE.
- The Confirmation Order will not vest property of the Estate on Debtor(s) until the Order discharging Debtor(s) is entered.

PLAN DATED: _____

☐ PRE ☒ POST-CONFIRMATION

☒ AMENDED PLAN DATED: 1/2/2017

FILED By ☐ DEBTOR ☐ TRUSTEE ☐ UNSECURED CREDITOR

I. PAYMENT PLAN SCHEDULE

\$ 565.00 x 13 = \$ 7,345.00
\$ 0.00 x 4 = \$ 0.00
\$ 315.00 x 43 = \$ 13,545.00
\$ 0.00 x 0 = \$ 0.00
\$ 0.00 x 0 = \$ 0.00
TOTAL = 60 \$ 20,890.00

Additional Payments:

\$ _____ to be paid as a LUMP SUM
with proceeds to come
within _____ from

☐ Sale of property identified as follows:

☐ Other: _____

Periodic Payments to be made other than and in addition to the above.

\$ _____ x _____ = \$ _____
To be made on: _____

PROPOSED PLAN BASE: \$ 20,890.00

II. ATTORNEY'S FEES

To be treated as a § 507 Priority, and paid before any other creditor and concurrently with the Trustee's fees, unless otherwise provided:

a. Rule 2016(b) Statement: 3,000.00
\$ _____
b. Fees Paid (Pre-Petition): 1,000.00)
(\$ _____)
c. R 2016 Outstanding balance: 2,000.00)
(\$ _____)

III. DISBURSEMENT SCHEDULE SEQUENCE

A. SECURED CLAIMS:

- ☒ Debtor represents that there are no secured claims.
☐ Secured creditors will retain their liens and shall be paid as follows:

☐ ADEQUATE PROTECTION Payments: Cr. _____ \$ 0.00

☐ Trustee will pay secured ARREARS:

Cr. _____ Cr. _____ Cr. _____

POC _____ POC _____ POC _____
\$ _____ \$ _____ \$ _____

☐ Trustee will pay REGULAR MONTHLY PAYMENTS:

(please refer to the above related notice, for important information about this provision)

Cr. _____ Cr. _____ Cr. _____

POC _____ POC _____ POC _____
Monthly Pymt.\$ _____ Monthly Pymt.\$ _____ Monthly Pymt.\$ _____

☐ Trustee will pay IN FULL Secured Claims:

Cr. _____ Cr. _____ Cr. _____

\$ _____ \$ _____ \$ _____

☐ Trustee will pay VALUE OF COLLATERAL:

Cr. _____ Cr. _____ Cr. _____

\$ _____ \$ _____ \$ _____

☐ Secured Creditor's interest will be insured. **INSURANCE POLICY** will be paid through plan:

Cr. _____ Ins. Co. _____ Premium: \$ _____

(Please indicate in "Other Provisions" the insurance coverage period)

☐ Debtor SURRENDERS COLLATERAL TO Lien Holder:

☐ Debtor will maintain REGULAR PAYMENTS DIRECTLY to:

B. PRIORITIES. The Trustee will pay §507 priorities in accordance with the law [§1322 (a)(2)].

☐

C. UNSECURED PREFERRED: Plan ☒ Classifies ☐ Does not Classify claims

☐ Class A: ☒ Co-debtor Claims: ☐ Pay 100% ☒ "Pay Ahead"

☐ Class B: ☐ Other Class:

Cr. _____ Cr. _____ Cr. _____

\$ 14,788.00 \$ _____ \$ _____

<p>d. Post Petition Additional Fees: <u>0.00</u></p> <p>\$</p> <p>e. Total Compensation: <u>3,000.00</u></p> <p>\$</p>	<p>D. GENERAL UNSECURED NOT PREFERRED: (Case Liquidation Value <u>0.00</u>)</p> <p>= \$</p> <p><input type="checkbox"/> Will be paid 100% plus ___% Legal Interest. <input checked="" type="checkbox"/> Will be paid Pro-Rata from any remaining funds</p>
<p>Signed: <u>/s/ WILLIAM LUCENA SOTO</u></p> <p>DEBTOR</p> <p><u>/s/ EVELYN LOPEZ RAMIREZ</u></p> <p>JOINT DEBTOR</p>	<p>OTHER PROVISIONS:</p> <p>* For additional other provisions, please see attachment sheet(s).</p>

CHAPTER 13 TRUSTEE: /s/ MIRIAM LOZADA RAMIREZ Phone: 787-834-3004

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Chapter 13 Plan Continuation Sheet

Additional Other Provisions:

Other provisions:

Attorney fees to be paid ahead of secured or priority creditor.

"Any post petition income tax refund that the debtor(s) would be entitled to receive during the term of the plan will be used to fund this plan. After its confirmation, and without further notice, hearing or Court order, the plan shall be deemed modified by the increment(s) to its Base, in an amount equal to the amount of each income tax refund."

WILLIAM LUCENA SOTO
RAFAEL HERNANDEZ #11
URB VERDUM
HORMIGUEROS, PR 00660

EVELYN LOPEZ RAMIREZ
RAFAEL HERNANDEZ #11
URB VERDUM
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MIRIAM LOZADA RAMIREZ
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MAYAGUEZ, PR 00682

COOP A/C LAJAS
14 JOSE M BASORA ST
LAJAS, PR 00667

DEPARTMENT OF TREASURY
PRIORITY CLAIMS
P.O. BOX 9024140
SAN JUAN, P. 00902-4140

FIRST FEDERAL SAVINGS
PONCE DE LEON AV STOP 23
SAN JUAN, PR 00901

YAHAIRA LUCENA LOPEZ
CALLE RAFAEL HERNANDEZ 11
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YARITZA LUCENA LOPEZ
CALLE RAFAEL HERNANDEZ 11
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